



Town of Bennington

Town Clerk

Report of Examination

Period Covered:

January 1, 2013 — September 17, 2013

2013M-319



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 2014

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Bennington, entitled Town Clerk. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

The Town of Bennington (Town) is located in Wyoming County (County) and has a population of 3,359 as of the 2010 census. The Town is governed by an elected five-member Town Board (Board) which comprises the Town Supervisor (Supervisor) and four councilpersons. The Board is responsible for the general management and control of Town finances. The Supervisor is the chief executive officer and chief fiscal officer. Budgeted appropriations for the 2013 fiscal year total \$1.5 million and are funded mainly by State aid and real property taxes.

The elected Town Clerk (Clerk) collects moneys for various purposes including dog, marriage and environmental conservation licenses; building permits; transfer station punch cards and vehicle identification stickers. Generally, all fees received by the Clerk are the property of the Town, County or State and must be remitted promptly to the appropriate entities. The Clerk recorded cash receipts totaling \$28,554 from January 1, 2013 through September 3, 2013. The Clerk is also responsible for collecting real property taxes. Tina Metz has been the Clerk since January 1, 2013.¹

Objective

The objective of our audit was to evaluate the operations and financial practices of the Clerk's office. Our audit addressed the following related question:

- Are internal controls over the Clerk's financial activities appropriately designed and operating effectively to adequately safeguard assets?

Scope and Methodology

We interviewed Town officials and examined the Clerk's records for the period January 1, 2013 through September 17, 2013.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix C of this report.

Comments of Local Officials and Corrective Action

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials

¹ The former Town Clerk is now the Deputy Town Clerk. Tina Metz stated that the Deputy performed the recordkeeping and deposit duties for Clerk activities through May 2013 because Metz was performing tax collection duties at that time and was not yet fully trained regarding her Clerk duties. The Deputy Clerk denies that she performed any Clerk duties, stating that Tina Metz performed all Clerk and tax collection duties starting January 2013, when she took office.

generally agreed with our recommendations and indicated they plan to take corrective action. Appendix B includes our comments on issues raised in the Town's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk's office.

Town Clerk

The Town Clerk (Clerk) is responsible for recording, depositing and disbursing all moneys collected in an accurate and timely manner. The Clerk is also the Tax Collector responsible for collecting and receiving tax payments, issuing receipts, and recording and depositing tax collections in a timely manner. The Clerk has two separate bank accounts: one for licenses and other fees (Clerk account) and one for real property taxes (Tax Collection account).

The Clerk did not record all receipts in the cash receipts journal, deposit amounts collected in a timely manner or intact,² remit moneys collected from both Clerk and tax collection activity to the Supervisor and other entities in a timely manner or issue press-numbered duplicate receipts. Due to these internal control weaknesses, cash receipts were not adequately safeguarded. We determined that the Clerk's account had a cash shortage of \$7,741 as of August 31, 2013. However, on September 3, 2013, the Clerk deposited \$5,956 to her account. This deposit still left a cash deficiency of \$1,785 in Clerk fees as of September 3, 2013. We also found that the Clerk's tax liabilities at September 5, 2013 – all payable to the Supervisor – exceeded known cash assets by \$6,424. On September 6, 2013, the day after we performed our analysis, the Clerk made a cash deposit to the Tax Collection account totaling \$6,444, which eliminated this shortage. We referred our report to the Wyoming County District Attorney for further review.

Clerk Fees

It is essential for the Clerk to account properly for all transactions by issuing press-numbered duplicate receipts,³ accurately recording amounts collected in the cash receipts journal, depositing receipts intact and within three business days after the total exceeds \$250,⁴ remitting moneys to the appropriate entities and performing a monthly bank reconciliation to ensure bank activity agrees with her accounting records.

The Clerk stated that she performed bank reconciliations on a monthly basis; however, she could not provide us with documentation to evidence this assertion. Therefore, the Clerk was unable to identify the total amount of cash on deposit and on hand for comparison with the amounts she owed to the Supervisor and others on a monthly basis.

² Intact means in the same amount and form (cash or check) as received.

³ General Municipal Law requires that duplicate receipts be issued – where no other form of documentation is available – to evidence a payment that is received.

⁴ Town Law

In addition, the Clerk did not issue duplicate receipts for all transactions where no other evidence of receipt was available.⁵

The cash receipts journal was not a complete record of all fees collected by the Clerk's office. For example, we found fees totaling \$405 that were recorded as received on duplicate receipts and copies of dog licenses but were not entered in the journal. Furthermore, \$444 in fees paid by check for licenses, permits and transfer station stickers were deposited in the Clerk's bank account but were not recorded in the cash receipts journal and did not have a corresponding duplicate receipt. As indicated in Table 1, we compared the cash receipts journal, as adjusted for these omitted entries, to bank deposits for the period January 1, 2013 through August 31, 2013. We found that the amount deposited by the Clerk was \$7,741 less than the amount collected. On September 3, 2013, prior to arriving for a cash count⁶ with us, the Clerk made a deposit totaling \$5,956. This deposit included \$5,571 in cash and \$385 in checks. This deposit reduced the cash deficiency to \$1,785.

Month 2013	Collections per Cash Receipts Journal (CRJ)	Source Documentation Not Recorded in CRJ	Checks Deposited, But Not Recorded in CRJ	Total Accountable For	Total Deposited	Difference-Over/(Short)
January	\$3,277	\$0	\$90	\$3,367	\$2,716	(\$651)
February	\$2,284	\$0	\$155	\$2,439	\$1,670	(\$769)
March	\$2,507	\$160	\$0	\$2,667	\$2,867	\$200
April	\$3,962	\$0	\$150	\$4,112	\$2,321	(\$1,791)
May	\$3,040	\$78	\$4	\$3,122	\$3,255	\$133
June	\$3,597	\$0	\$0	\$3,597	\$2,083	(\$1,514)
July	\$3,614	\$142	\$36	\$3,792	\$3,206	(\$586)
August	\$6,273	\$25	\$9	\$6,307	\$3,544	(\$2,763)
Totals	\$28,554	\$405	\$444	\$29,403	\$21,662	(\$7,741)
September 3, 2013 Deposit						\$5,956
Remaining Shortage						(\$1,785)

The Clerk stated that the \$5,571 in cash she deposited on September 3, 2013, which was far in excess of the amount related to August 2013 activity, was cash she had in her safe that she could not identify with any monthly activity.⁷ However, as discussed above, prior to this deposit, the Clerk did not deposit sufficient funds to cover both recorded and unrecorded activity in six of the eight months since she took office.

⁵ The Clerk maintained evidence of transactions for Department of Environmental Conservation licenses through its computerized system and for dog licenses by retaining a portion of the license. She issued duplicate receipts for some building and zoning permit activity but did not issue duplicate receipts for other transactions.

⁶ At the cash count, the Clerk certified that she had no cash or checks on hand at that time.

⁷ The \$385 in checks deposited on September 3, 2013 related to transactions that were recorded in the cash receipts journal for August 2013.

The Clerk also deposited three personal checks totaling \$1,700 into the Clerk account: two totaling \$900 in April 2013 and one for \$800 in June 2013. The Clerk stated that these checks were to purchase transfer station punch cards for her personal use. However, there were no entries in the cash receipts journal during this period indicating that the Clerk had purchased punch cards for these amounts. In May 2013, the Clerk recorded the sale of a total of 67 punch cards, for \$1,005, in her cash receipts journal. The Clerk's two personal checks totaling \$900 that she had deposited in April 2013 would represent the sale of 60 of these punch cards. However, we found checks totaling \$285 from other individuals for punch cards in the bank deposit composition, which would account for 19 cards. Thus, the Clerk may have sold 79 punch cards that month, rather than the 67 that were recorded in the cash receipts journal. The 12 additional cards sold would amount to \$180.

Furthermore, the Clerk's check from June 18, 2013, in the amount of \$800, would account for 53.3 punch cards at \$15 each. When we questioned her why the \$800 June purchase would account for a fraction of a punch card, the Clerk stated that she paid by check for some tickets and with cash for others. However, because the Clerk did not issue duplicate receipts for punch cards, or record punch card sales individually by number in the cash receipts journal, there was no documentation to support her statement, or that the three personal checks were indeed for punch cards she purchased for her personal use.

While the punch cards recorded as sold appeared to have been issued in sequence and the cards remaining on hand with the Clerk were in sequence, the Clerk did not include all punch cards sold on her detail transaction reports. For example, the Clerk recorded a sale to a local business in June 2013 for 10 punch cards, for a total of \$140.⁸ However, the punch card numbers recorded on the detail transaction report were 22059 through 22084, inclusive, or 26 cards sold, which would mean a total of \$364 should have been collected from the business. This same type of misstatement occurred for 17 other entries in the Clerk's detail transaction reports. As a result, while the Clerk reported sales of 1,134 punch cards, totaling \$16,505, the actual number of punch cards sold was 1,162. Therefore, \$399 was not recorded as having been received.

From January 2013 through August 2013, fees totaling \$2,019 were not included on the Clerk's monthly report to the Supervisor or remitted to either the Supervisor or other appropriate agencies (such

⁸ Punch cards sold to businesses for resale are sold at a discounted rate of \$14 per card rather than \$15.

as the Department of Health for marriage licenses). This amount includes \$1,170 of receipts recorded by the Clerk in her record, as well as the \$849 we identified from duplicate receipts, dog licenses and check payments not recorded in the Clerk's accounting records.

Not only did we find a \$1,785 shortage in Clerk fees, if the Clerk's inadequate recordkeeping and cash custody practices continue, Town funds will remain at a great risk of being lost or misappropriated.

Tax Collection Activity

The Clerk is accountable for all tax moneys collected. Town Law and Real Property Tax Law set forth the legal requirements the Clerk must comply with to record, deposit and remit tax receipts. The Clerk is responsible for the accurate and timely recording of tax collections in the accounting records, for depositing tax collections within 24 hours of receipt⁹ and for securing all moneys received. The Clerk must first pay the Supervisor until the Town's total tax levy is satisfied and then remit any additional tax receipts to the County Treasurer by the 15th day of each month following receipt. At the end of the collection period, the Clerk is required to settle with the County Treasurer and must account for the taxes collected, amounts remitted to the Supervisor and County Treasurer, any adjustments to the tax roll, and the taxes that remain unpaid. The Clerk must also turn over all interest and penalties collected for delinquent real property taxes to the Supervisor.

We analyzed 2013 tax collections as of September 5, 2013 and determined that the Clerk's tax liabilities at that date – all payable to the Supervisor – exceeded known cash assets by \$6,424, as indicated in Table 2.

⁹ Town Law

Table 2: Analysis of Tax Collections		
Bank Account Balance January 1, 2013		\$16
Deposits		
January	\$1,440,072	
February	\$987,891	
March	\$165,453	
April	\$98,543	
May and June	\$500	
Total Deposited During Collection Period		\$2,692,459
Remittances		
Refund of Duplicate Payment ^a	\$204	
Supervisor	\$1,054,760	
County - Settled 4/19/13	\$1,635,141	
Total Remitted		\$2,690,105
Bank Account Balance September 5, 2013		\$2,370
Liabilities as of September 6, 2013 Amounts Due to the Supervisor		
Unpaid Water Bills Re-levied on Tax Roll	\$2,936	
Penalties	\$5,507	
Interest Income	\$98	
Total Due to Supervisor		\$8,541
Overpayments Not Refunded		\$253
Shortage		(\$6,424)
Deposit on September 6, 2013		\$6,444
Balance in Account After September Deposit		\$20
^a Per Clerk, this was a tax bill paid by both the taxpayer and the escrow account; a refund check was sent to the escrow account.		

On September 6, 2013, the day after we performed our analysis of the Clerk’s accountability for tax collections – well after the tax collection period had ended – the Clerk made a deposit totaling \$6,444 which consisted entirely of cash. The Clerk told us that she had found the cash in the bottom of a cabinet in the Clerk’s office when she was gathering the tax reports for our review and made the deposit as soon as she found the cash. The \$6,444 in cash deposited on September 6, 2013 corresponded with five tax bills posted to the cash receipts journal as having been paid on April 1, 2013 and April 2, 2013. The Clerk settled the warrant with the County Treasurer on April 19, 2013. At that time, the Clerk paid the County Treasurer \$265,141, representing the final installment of taxes due to the County. This left \$2,370 in the Clerk’s tax collection bank account, an insufficient amount to fund the remaining liabilities due to the Supervisor.

It is troubling to consider that, after she settled with the County, the Clerk did not recall that she had \$6,444 in cash in a cabinet drawer in Town Hall. She also failed to recognize that she lacked a sufficient

amount of cash in the bank to pay the Supervisor for re-levied water rents and for interest and penalties she had collected. The Supervisor also failed to note that the Clerk had not remitted re-levied water rents and interest and penalties on the late payment of taxes to her until we brought it to the Supervisor's attention on September 17, 2013.

For tax collection activities, the Clerk has a check scanner that enables her to scan checks received for tax payments directly to the bank for immediate deposit. As a result, only payments received in cash require the Clerk to make deposits at the bank. While deposits of checks were generally made in a timely manner and intact, we found that the Clerk did not deposit cash received in a timely manner. We reviewed all 16 cash deposits made during the 2013 tax collection period and found that the total cash amount of \$53,603 was deposited, on average, 21 days late.

Finally, the Clerk did not remit funds to the Supervisor at least once each week as required. Rather, the Clerk made two payments at the end of January, one at the beginning of February, and one at the end of February, totaling \$1,054,760. However, these payments did not include unpaid water bills that were re-levied by the Town, totaling \$2,936, or interest and penalties totaling \$5,605.

Due to the Clerk's poor recordkeeping and cash custody practices, as well as the \$1,785 shortage in Clerk fees, the Board lacks assurance that all Town fees were appropriately collected, deposited, reported and remitted to appropriate parties.

Recommendations

1. The Board should ensure that the shortage in the Clerk's account is resolved. The Board should take immediate steps to protect Town moneys and prevent additional shortages from occurring.

The Clerk should:

2. Issue press-numbered duplicate receipts for all transactions where no other form of receipt is available.
3. Accurately record all fees collected and deposit all moneys in a timely manner and intact.
4. Perform monthly bank reconciliations to ensure that known liabilities agree with available cash.
5. Remit all moneys collected to the Supervisor and other appropriate agencies in a timely manner.

APPENDIX A

RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages.

TOWN OF BENNINGTON

905 Old Alleghany Road, Attica New York 14011

Phone: 585-591-2157 Fax: 585-591-1830

www.benningtonny.com

July 14, 2014

Jeffrey Mazula, Chief Examiner

New York State Office of the State Comptroller

295 Main Street, Suite 1032

Buffalo New York 14203-2510

Audit: 2013M-319

Town Clerk

Dear Mr. Mazula:

The Bennington Town Board has received a copy of the preliminary findings of the Office of State Comptroller' audit of the 2013 Town Clerk and Tax Collector records. We look at this as a tool to identify weaknesses , increase the efficiency of our offices and maintain our responsibility to the financial oversight of tax payer and resident's dollars.

See
Note 1
Page 20

Many of the discrepancies that were identified, we believe, were due to the transition period from one Clerk to a newly appointed one, and staff confusion with recording transactions and deposits. The audit was conducted a half a year into the new Clerk's term, and while it was beneficial to have it identify practices that needed change, it also prevented staff from having sufficient time after the tax collection season and training periods to do internal reviews of records to discover problems and needed corrections. We are continuing to review the 2013 records to see if these can be clarified further.

See
Note 2
Page 20

See
Note 3
Page 20

The September 6th deposit of earlier cash tax receipts were reported as paid, and then stored in the office by a worker and not found and deposited until later. I take responsibility as Fiscal Officer for using the Town Budget document to reconcile payments from the Collector instead of the Tax Warrant. 2013 was the first year the Town re-levied unpaid water bills onto the tax roll and requesting the payment for such was missed until pointed out by the auditor. Re-levies are not shown on the Budget, only on the Warrant. Also, the report indicates the former Clerk, who was serving in a deputy/training capacity, stated that she performed no actual duties during the period of the audit, which she claims is untrue. The former clerk served in the office during all business hours in January and February and then part-time in later months, and filled in when the Clerk was ill or at conference.

See
Note 4
Page 20

The Town Board members have worked with the current Clerk/Collector to identify means to increase her accountability through additional recordkeeping with more detailed reporting, timely deposits of cash receipts and supports through external sources to cross check records. We believe these methods, which will be outlined in our Corrective Action Plan, will assist staff, our audit consultant and the state in the future to have a more comprehensive understanding and accountability of the financial transactions of the Town. We will continue to review the 2013 records to reconcile any discrepancies that remain

Jeffrey Mazula
July 14, 2014
Page two

outstanding and have confidence that the changes that have been and are being implemented will maintain safeguards and control over transactions and finances.

Should you have any questions, please contact me at 585-813-1083. Thank you.

Sincerely,

Ellen M. Grant
Supervisor

Xc: Town Board Members

APPENDIX B

OSC COMMENTS ON THE TOWN'S RESPONSE

Note 1

The combined Clerk and tax collection shortage totaled \$14,165 until the Clerk made two large deposits in September 2013. Further, the Clerk did not provide any reasonable explanation for the remaining shortage of \$1,785. As such, we have referred this matter to the Wyoming County District Attorney.

Note 2

When the former Clerk left office on December 31, 2012, Town Clerk assets and liabilities both totaled \$4,113. No cash deficiency was noted.

Note 3

To clarify, the audit scope period was January 1, 2013 through September 17, 2013.

Note 4

We spoke with the Deputy Clerk regarding the Town Clerk's claim that the Deputy performed all Clerk duties from January through May 2013. The Deputy stated that she did not handle any 2013 cash receipts or perform any of the recordkeeping duties during this period. She stated that she was at Town Hall for training purposes and to answer questions, but the Town Clerk handled both Clerk and tax collection activity during that time.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of internal controls put in place by officials to safeguard Town assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial oversight, cash receipts and disbursements, payroll and personal services, Court operations, Highway operations, Clerk operations and information technology.

During the initial assessment, we interviewed appropriate Town officials, performed limited tests of transactions and reviewed pertinent documents, such as Board minutes, financial records and reports. After reviewing the information gathered during our initial assessment, we determined where weaknesses existed and evaluated those weaknesses for the risk of fraud, theft or professional misconduct. We then decided upon the reported objective and scope by selecting for audit those areas at most risk. We selected the Town Clerk's operations for further audit testing.

To accomplish our objective, our procedures included the following:

- We interviewed appropriate Town officials to gain an understanding of the internal control policies and procedures relating to the Clerk's management of cash receipts for Clerk and tax collection activity and to determine if bank reconciliations were performed accurately.
- We reviewed the Clerk's accounting records for both Clerk and tax collection activity to determine if she made appropriate entries, including payee names, amounts, dates and types of payments.
- We examined detail transaction reports for New York State Department of Environmental Conservation Automated Licensing System (DECALS), dog licenses, transfer station punch card sales, building and special permits, the Clerk's cash receipts journal and the Clerk's monthly reports to evaluate their adequacy.
- We performed a cash count for Clerk activity as of September 3, 2013 to determine the amount of cash and checks the Clerk had on hand since her last bank deposit, for comparison with her cash receipts records.
- We obtained compositions of all bank deposits made during our audit period to determine if deposits were made intact and in a timely manner.
- We compared all images of canceled checks written from the Clerk account and Tax Collection account to the Clerk's monthly reports, tax warrant and settlement sheet during our audit period.
- We compared deposits from the bank statements to the Clerk's records for Clerk and tax activity to determine if all deposits were recorded in the records.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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